

Response Under 37 CFR 1.116

Expedited Procedure

Examining Group 3781

Application No. 10/519,880

Paper Dated: June 4, 2010

In Reply to USPTO Correspondence of March 5, 2010

Attorney Docket No. 3988-045910

REMARKS

Claims 25-50 are in the instant application. Claims 36-45 are withdrawn as being directed to a non-elected invention. Withdrawn claims 40 and 43-45 are cancelled without prejudice to avoid fees for the new claims added by this Amendment, and claims 25 and 46 are amended to more positively recite Applicant's patentably novel cap for a laminated carton packaging (claims 25-35) and laminated carton for beverages (claims 46-50). This Amendment adds new claims 51-54 to set forth Applicant's patentably novel invention in varying scope. No claims are allowed or indicated allowable.

Claims 25, 26, 28, 34, 35 and 46 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,156,295 to Gordon et al. (hereinafter also referred to as "Gordon"). Applicant respectfully traverses the rejection of claims 25, 26, 28, 34, 35 and 46 under 35 U.S.C. § 102(b) as being anticipated by Gordon; however, to eliminate this issue claim 25 on which claims 26, 28, 34 and 35 are dependent, and claim 46 are amended. More particularly, claim 25 is amended to recite a cap for a laminated carton packaging for beverages, the cap includes, among other things:

a support member having a circumferential angled edge, wherein an outer surface of the angled edge defines a perimeter of the support member and a substantially planar surface within the perimeter;

a spout element within and spaced from the perimeter, the spout element having a screw thread and a spout opening designed to be closed by a screw cap;

wherein the cap is constructed of plastic and is deep drawn, wherein the laminated carton packaging includes a packaging body having an end, and wherein the support member is to be mounted on the end of the packaging with the circumferential angled edge engaging a surface of the packaging.

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Support for the amendments to claim 25 is found, among other places, in the pending claims and in Figs. 1, 7 and 8. Based on the foregoing, Applicant respectfully requests admission of the amendments to claim 25 and consideration of claims 25, 26, 28, 34 and 35.

The Office Action alleges that Gordon teaches a cap for a laminated carton (page 2, section 5, lines 2 and 3.). Applicant respectfully disagrees. The number 10 of Gordon denotes a generally integrated paperboard blank. The parts of the integrated blank include a plurality of sidewall forming panels such as fifth flap 12 and generally rectangular panels 14, 16, 18 and 20 and bottom flap 22 (Col. 2 lines 50-60 of Gordon). A flexible bag 50 is positioned in the container (Col. 3, lines 22-37 of Gordon). The bag 50 is attached to the inner surface of the paperboard blank by a weak adhesive when connecting the flexible bag 50 and the paperboard blank (Col. 4, lines 24-34; Col. 5, lines 4-15 of Gordon). Applicant respectfully submits that Gordon teaches connecting the flexible bag 50 and the paperboard blank 10 temporarily; however, there is no disclosure in Gordon that the panels of the blank 10 are laminated panels, i.e. made up of a plurality of joined sheets or layers. Applicant's claim 25 on the other hand recites in lines 1 and 2 that the cap of the invention is for a laminated carton packaging.

The Office Action continues by alleging that the circumferential edge of Gordon is the portion of the bottom surface that angles upwardly 90 degrees; this portion is located between lead lines 70 and 82 in Fig. 9 of Gordon (Page 5, Section 12 of the Office Action). As shown in Fig. 9 the portion of the bottom surface that angles upward abuts the blank of Gordon. Claim 25 recites that the cap includes a support member having a circumferential angled edge. The outer surface of the circumferential edge defines the perimeter of the support member, and the circumferential edge engages a surface of the packaging.

Because Gordon fails to disclose the features of the cap of claim 25, Gordon does not anticipate the subject matter of claim 25.

Consider now amended claim 46. Amended claim 46 recites a laminated carton packaging for beverages, including, among other things:

a cap; and

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a packaging body,

the cap comprising:

a support member having a circumferential angled edge, wherein an outer surface of the angled edge defines a perimeter of the support member and a substantially planar surface within the perimeter;

a spout element within and spaced from the perimeter, the spout element having a screw thread and a spout opening designed to be closed by a screw cap;

wherein the cap is constructed of plastic and is deep drawn, wherein the packaging body has an end, and wherein the support member is mounted on the end of the packaging body with the circumferential angled edge engaging a surface of the packaging.

Support for the amendments to claim 46 is found, among other places, in the pending claims and in Figs. 1, 7 and 8. Based on the foregoing, Applicant respectfully requests admission of the amendments to, and consideration of, claim 46.

As discussed above, the Office Action alleges that Gordon teaches a cap for a laminated carton (page 2, section 5, lines 2 and 3.), and Applicant respectfully disagrees. More particularly, the number 10 of Gordon denotes a generally integrated paperboard blank. The parts of the integrated blank include a plurality of sidewall forming panels such as fifth flap 12 and generally rectangular panels 14, 16, 18 and 20 and bottom flap 22 (Col. 2 lines 50-60 of Gordon). A flexible bag 50 is positioned in the container (Col. 3, lines 22-37 of Gordon). There is no disclosure in Gordon that the panels of the blank 10 are laminated panels, i.e. made up of a plurality of joined sheets or layers. Applicant's claim 46 on the other hand is directed to a laminated carton packaging for beverages. As can be appreciated, the blank of Gordon and carton packaging of claim 46 are patentably different.

The Office Action alleges that the circumferential edge of Gordon is the portion of the bottom surface that angles upwardly 90 degrees; this portion is located between lead lines

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70 and 82 in Fig. 9 of Gordon (Page 5, Section 12 of the Office Action). As shown in Fig. 9 the portion of the bottom surface that angles upward abuts the blank of Gordon. Claim 46 recites that the cap includes a support member having a circumferential angled edge. The outer surface of the circumferential edge defines the perimeter of the support member, and the circumferential edge engages a surface of the packaging.

Because Gordon fails to disclose the features of the laminate carton packaging of claim 46, Gordon does not anticipate the claimed subject matter of claim 46. Based on the foregoing, Applicant respectfully requests withdrawal of the rejection of claims 25, 26, 28, 34, 35 and 46 under 35 U.S.C. 102(b) as being anticipated by Gordon and requests allowance of claims 25, 26, 28, 34, 35 and 46.

Claim 27 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of U.S. Patent No. 4,643,330 to Kennedy (hereinafter also referred to as “Kennedy”). Applicant respectfully traverses the rejection of claim 27 under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of Kennedy and requests reconsideration thereof. Claim 27 depends from claim 25. Claim 25 and Gordon were discussed above.

The Office Action alleges that Kennedy teaches that it is known to provide a spout with interrupted threads (see element 32 of Kennedy) (page 3, section 7 of the Office Action). Applicant respectfully submits that even if the allegation of the Office Action is correct, the combination of Gordon and Kennedy do not disclose the claimed subject matter of claim 27, which includes, among other things, a cap for a laminated carton packaging and a cap that includes, among other things, a support member having a circumferential angled edge. The outer surface of the circumferential edge defines the perimeter of the support member, and the circumferential edge engages a surface of the packaging.

Because the disclosures of Gordon and Kennedy fail to disclose these features of claim 27, claim 27 is patentably novel over the disclosures of Gordon and Kennedy.

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Based on the foregoing, Applicant respectfully requests withdrawal of the rejection of claim 27 under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Kennedy and requests allowance of claim 27.

Claims 29 and 30 are rejected under 35 U.S.C. § 103(a) for obviousness over Gordon in view of DE 3832412. Applicant respectfully traverses the rejection of claims 29 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of DE 3832412 and requests reconsideration thereof. Claims 29 and 30 depend from claim 25. Claim 25 and Gordon were discussed above.

The Office Action alleges that DE 3832412 teaches that it is known to provide a spout made of multilayer foil (page 3, section 8 of the Office Action). Applicant respectfully submits that even if the allegation of the Office Action is correct, the combination of Gordon and DE 3832412 does not disclose the claimed subject matter of claims 29 and 30, which includes, among other things, a cap for a laminated carton packaging and a cap that includes, among other things, a support member having a circumferential angled edge. The outer surface of the circumferential edge defines the perimeter of the support member, and the circumferential edge engages a surface of the packaging.

Because the disclosures of Gordon and DE 3832412 fail to disclose these features of claims 29 and 30, claims 29 and 30 are patentably novel over Gordon and DE 3832412 .

Based on the foregoing, Applicant respectfully requests withdrawal of the rejection of claims 29 and 30 under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of DE 3832412 and requests allowance of claims 29 and 30.

Claims 31-33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of U.S. Patent No. 4,966,780 to Hargraves et al. (hereinafter also referred to as “Hargraves”). Applicant respectfully traverses the rejection of claims 31-33 under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of Hargraves and requests reconsideration thereof. Claims 31-33 depend from claim 25. Claim 25 and Gordon were discussed above.

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The Office Action alleges that Hargraves teaches that it is known to provide a cap with an angled edge, outward pitch and downward tapering periphery (see Fig. 1A of Hargraves) (page 4, section 9 of the Office Action). Applicant respectfully submits that even if the allegation of the Office Action is correct, the cap of Hargraves does not provide a support member having a circumferential edge that engages a surface of a packaging. Further, the combination of Gordon and Hargraves does not disclose the claimed subject matter of claims 29 and 30, which includes, among other things, a cap for a laminated carton packaging.

Because the disclosures of Gordon and Hargraves fail to disclose these features of claims 31-33, claims 31-33 are patentably novel over Gordon and Hargraves.

Based on the foregoing, Applicant respectfully requests withdrawal of the rejection of claims 31-33 under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Hargraves and requests allowance of claims 31-33.

Claims 47, 49 and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of Bouraoui et al. U.S. Patent No. 5,848,748 (hereinafter also referred to as "Bouraoui"). Applicant respectfully traverses the rejection of claims 47, 49 and 50 under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of Bouraoui and requests reconsideration thereof. Claims 47, 49 and 50 are dependent on claim 46. Gordon and claim 46 were discussed above.

The Office Action alleges that Bouraoui teaches that it is known to provide a packaging body with a carton/plastic/aluminum laminate (see Col. 4, line 61 through Col. 5, line 7) (Page 4, Section 10 of the Office Action). Applicant respectfully submits that Gordon teaches away from a packaging body with a carton/plastic/aluminum laminate. More particularly, Gordon teaches that liquid is poured into a flexible bag 50, and the bag is placed in the blank 10 (col. 2, line 65 to col. 3, line 4 of Gordon). One skilled in the art would read Gordon and Bouraoui and make the blank of Gordon out of a laminate to receive the bag 50 of Gordon having the liquid. In other words, one skilled in the art would not make a more expensive

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laminated blank to hold the bag 50 containing the liquid. Further, Gordon in Col. 1, lines 3-30 teaches away from the use of a laminated blank.

Further claim 46 recites that the cap includes a support member having a circumferential angled edge. The outer surface of the circumferential edge defines the perimeter of the support member, and the circumferential edge engages a surface of the packaging. This feature is not disclosed by the combination of Gordon and Bouraoui.

Based on the foregoing, Applicant respectfully requests withdrawal of the rejection of claims 47, 49 and 50 under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Bouraoui and requests allowance of claims 47, 49 and 50.

Claim 48 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of Bouraoui and DE 3308112. Applicant respectfully traverses the rejection of claim 48 under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of Bouraoui and DE 3308112, and requests reconsideration thereof. Claim 48 is dependent on claim 46. Claim 46, Gordon, Bouraoui and DE 3308112 were discussed above.

Applicant showed above that one skilled in the art would not combine Gordon and Bouraoui. Further, Applicant showed above that there is no disclosure in Gordon, Bouraoui and DE3308112 of a laminated packaging having a cap having a support member having a circumferential angled edge. The outer surface of the circumferential edge defines the perimeter of the support member, and the circumferential edge engages a surface of the packaging. Since none of Gordon, Bouraoui and DE3308112 teaches the above features, the combination of Gordon, Bouraoui and DE3308112 does not teach these features.

Based on the foregoing, Applicant respectfully requests withdrawal of the rejection of claim 48 under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Bouraoui and DE 3308112 and requests allowance of claim 48.

Applicant by this Amendment has added new claims 51-54. Claims 51 and 52 depend from claim 25, and claims 53 and 54 depend from claim 46. Support for claims 51-54 is found, among other places, in the pending claims and in Figs. 7 and 8. The arguments put forth

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to patentably distinguish claims 25 and 46 over the art of record are applicable, among others, to patentably distinguish claims 51-54 over similar art.

Based on the foregoing, Applicant respectfully requests admittance of, consideration of, and allowance of, claims 51-54.

This Amendment represents a sincere effort to place this application in condition for allowance. In the event issues remain, the Examiner is invited to call the undersigned to discuss those issues before further action is taken on this application.

Respectfully submitted,

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